Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	

REPLY COMMENTS OF
Level 3 Communications, LLC

Staci L. Pies
William P. Hunt, III
8270 Greensboro Drive
Suite 900
McLean, VA 22102
703-762-0143

November 5, 2001

TABLE OF CONTENTS

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	

Reply Comments of Level 3 Communications

I. INTRODUCTION AND SUMMARY

Level 3 encourages the Commission to adopt a unified intercarrier compensation regime that optimizes the following goals: technological and competitive neutrality, deployment of the most efficient technology, efficient consumer decisions, minimal regulatory intervention and reduced transaction costs.

Although the focus of Level 3's comments in response to the Commission's Notice of Proposed Rulemaking ("Notice")[1] on the development of a unified intercarrier compensation regime was the regulatory uncertainty associated with the application of the access charge regime to Voice over Internet protocol (VoIP) services and how that uncertainty drives many business decisions of Level 3 and other providers with advanced Internet protocol (IP)-based networks, as the record reflects, the intercarrier compensation solution adopted by the Commission must address issues broader than VoIP regulation.

---

[1] *Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, CC Docket No. 01-92, 16 FCC Rcd 9610 (2001) (Notice).

In its comments, Level 3 advocated moving the intercarrier compensation regime to a forward-looking, economic cost-based model so that carriers are compensated for the functionality provided, with a reasonable profit. Level 3 continues to support this position, but recognizes that absent a truly competitive market where carriers can negotiate compensation levels freely without one party able to exert its market power, regulatory bodies would be tasked with determining such cost-based rates for interconnection. As has become painfully obvious with regard to the determination of forward looking, cost-based rates for unbundled network elements, determining those costs would be time consuming, slowed by litigation, require considerable financial resources from carriers and regulators, and in the end, would create regulatory uncertainty, thus failing to achieve the Commission's goals of efficient use of, and investment in, telecommunications networks and the efficient development of competition.[2]

Although the commenters propose a variety of solutions including maintaining the current patchwork of compensation regimes, imposing bill and keep only for ISP-bound traffic, replacing both reciprocal compensation and the ISP-bound scheme with bill and keep, requiring bill and keep only for LEC-CMRS interconnection or adopting bill and keep for all traffic, Level 3 believes that the record supports adoption of a bill and keep compensation scheme for all traffic that traverses the public switched network (PSTN). Under such a scheme, the originating and terminating carrier each recovers the

[2] *Id.,* 16 FCC Rcd at para. 2.

costs of its local facilities from its end-user customers rather than other carriers, thereby eliminating a transfer of payments for the cost of the loop and local switching.[3]

Some commenters devoted considerable time and effort attempting to discredit bill and keep. Level 3 recognizes that the issues associated with the adoption of bill and keep are complicated, and that bill and keep may not by the pancea. As the record reflect, it is true that no regulatory regime is perfect. Instead, regulation is a crude instrument that will always create some arbitrage opportunities, but it is necessary to prevent monopolies from abusing or extending market power. Level 3 believes, however, that commenters opposing bill and keep failed to show why maintaining the current patchwork of compensation regimes presents a superior solution to the adoption of a bill and keep regime for all traffic. They also fail to explain how a pure forward looking, economic cost-based system could feasibly be made to work efficiently, given the diversity of networks and different functionalities among networks that have developed and will continue to develop in today's "network of networks."

Level 3 agrees with those commenters who recognize that the most vexing question facing the Commission, whether it adopts a bill and keep regime for all traffic or retains the current patchwork of compensation regimes, is how to allocate the costs for transport. The Commission must adopt a default transport rule that allocates transport costs in an economically efficient, non-discriminatory and competitively neutral manner.

---

[3] *Id.*, 16 FCC Rcd at paras. 23-24. *See* Patrick DeGraba, *Bill and Keep at the Central Office As the Efficient Interconnection Regime*, Federal Communications Commission, Office of Plans and Policy (OPP) Working Paper No. 33 (Dec. 2000) (*COBAK Proposal*); *see also* Jay M Atkinson & Christopher C. Barnekov, *A Competitively Neutral Approach to Network Interconnection, Federal Communications Commission*, Office of Plans and Policy (OPP) Working Paper No. 34 (Dec. 2000) (*BASICs Proposal)*

Finally, the Commission must reject immediately Bell operating company (BOC) attempts to impose restrictions on the use of "Virtual NXX" codes. The use of Virtual NXX codes is not unlawful, as argued by Verizon. Moreover, an incumbent LEC bears no more transport responsibility on its network in originating these Virtual NXX calls than it does in originating a call to a competitive LEC customer physically located in the same local exchange area as the calling party.

A compensation scheme that sends efficient market signals will encourage carriers to deploy the technologies and services that customers demand.[4] As the record supports until the Commission adopts such a scheme, end-user customers will be unable to choose the types of services that best meet their needs and carriers will naturally seek to profit by deploying technologies and offering services that fit within the most profitable regulatory constructs, rather deploying efficient networks and new technologies.

II. A UNIFIED INTERCONNECTION PRICING REGIME

A. The Commission Should Adopt A Default Unified Intercarrier Compensation Regime For All Traffic

As many supporters of a bill and keep regime argue, if the Commission implements intercarrier compensation reform, it is critical that the compensation mechanisms be implemented for all functionally equivalent traffic.[5] The Commission should implement a single intercarrier compensation scheme for all types of traffic,

---

[4] *See* Qwest Communications, Inc. (Qwest) Comments at 3; TimeWarner Telecom (TWTC) Comments at 20 (arguing that selective application of bill and keep to ISP bound traffic will encourage inefficient behavior).

[5] *See, e.g.,* ALLTEL Communications, Inc. (ALLTEL) Comments at 6; CBeyond Communications, LLC (CBeyond) Comments at 3-4 & 7; TWTC Comments at 20-21.

(including local, interstate access traffic, and CMRS) that interconnects with the PSTN, regardless of the technology used to provide the service (circuit switched or packet switched) to avoid creating incentives for carriers to configure their networks in an attempt to profit from or avoid certain regulatory outcomes. The comments show that there is no single solution to the problems inherent in the current intercarrier compensation regimes. Rather than searching for the ultimate and perhaps unobtainable solution, the Commission should look to the future where providers no longer are defined by the technologies they deploy or the geographic space in which they originate and terminate services. Any interconnection pricing scheme that continues to support the notion that there is a cost differential between terminating a local or an interexchange call or between terminating a voice call or a data call to an Internet service provider (ISP) only invites inefficient, regulatory-inspired outcomes and ignores the realities of the engineering involved in such call termination.[6]

The Commission has already recognized in the *ISP-Bound Intercarrier Compensation Order* that there are no inherent cost differences between delivering voice traffic to a local end-user and ISP-bound dial-up traffic.[7] Although the Commission determined that the application of reciprocal compensation to ISP-bound traffic created uneconomic market distortions, it also found that the compensation rates, terms, and conditions must be the same for local voice and ISP-bound traffic. To this end, the Commission required incumbent local exchange carriers (LECs) to lower their

---

[6] *See* America Online, Inc. (AOL) Comments at 2-3; Global Crossing, Ltd. (GX) Comments at 7-8.

[7] *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, *Intercarrier Compensation for ISP-Bound* Traffic, CC Docket No. 96-98, CC Docket No. 99-68, Order on Remand and Report and Order, 16 FCC Rcd 9151 , at para. 89-90 (2001) (*ISP-Bound Intercarrier Compensation Order*). *See also* AOL Comments at 2-3, GX Comments at 7-8.

rates for local traffic to mirror the established rate for ISP-bound traffic for the incumbent LEC to take advantage of the lower ISP-bound rate. The Commission should likewise conclude that there is no cost differential in terminating traffic that originates locally, as compared to traffic that originates outside of the local exchange, and extend the requirement that all traffic be treated similarly to include termination of interexchange traffic on the local network.

Non-cost-based differences in rates resulting from legacy regulation or from differences in approach between jurisdictions encourage inefficient network designs and inefficient investment intended to circumvent non-cost-based pricing. For example, if interstate access traffic is bill and keep, but intrastate access traffic is calling party network pays (CPNP), carriers will need to monitor the traffic by destination to ensure that a minute of traffic falls into the proper payment scheme. This could also lead to costly and inefficient requirements to segregate the intrastate traffic into trunks separate from interstate traffic, as is the case today for access traffic versus local traffic. From an engineering perspective, whether a "minute is a minute" or a "packet is a packet," it should also be true from an interconnection pricing perspective, regardless of whether the rate is a positive price or is zero under bill and keep.

B. In Order To Create A Unified Intercarrier Compensation Mechanism, The Commission Must Ensure That States Complete Intrastate Access And Universal Service Reform.

As Level 3 stated in its comments, the advantages of shifting to a "bill-and-keep" compensation system are undermined substantially if the compensation mechanism is not uniform, but varies, for example, between interstate and intrastate

traffic.[8] Indeed, even if the Commission retained a CPNP system, a compensation system that continued to charge different rates for intrastate access traffic than for all other interstate and intrastate traffic would impose unnecessary engineering and bookkeeping inefficiencies on all telecommunications carriers, particularly carriers developing new products that may not otherwise have usage or geographically-based rates.[9] Moreover, to the extent that intrastate access charges include implicit universal service support for local residential rates, that universal service objective economically cannot be sustained as technological advancements continue to open the door to a wide range of substitute products, including IP-based information services.[10]

It is therefore critical that the Commission, in consultation with the states, encourage development of mechanisms to move intrastate access rates down to cost-based levels or, if the Commission does so for other traffic, to "bill-and-keep." In order to accelerate the deployment of a truly uniform compensation system, the Commission should implement such a transitional mechanism immediately, so that the states could transition intrastate access rates at least down to the same levels as interstate access prices could by a date no later than the end of the transition mechanisms the Commission has in place for interstate access and reciprocal compensation pricing.

Although many commenters assume that the Commission may lack jurisdiction to direct reductions in intrastate access rates[11] that assumption ignores the

---

[8] Level 3 Comments at 24.

[9] *Id*.; *see also* Sprint Corporation (Sprint) Comments at 23; WorldCom Inc. (WorldCom) Comments at 10.

[10] *See* SBC Communications Inc. (SBC) Comments at 14.

[11] *See* Allegiance Telecom, Inc. (Allegiance) Comments at 23-25; Iowa Utilities Board (IUB) Comments at 5; Public Service Commission of the State of Missouri (MoPSC) Comments at 3-4; Qwest Communications Inc. (Qwest) Comments at 45-47. *But see* SBC Communications, Inc. (SBC) Comments at 32-34.

Commission's reinterpretation of Sections 251(b)(5) and 251(g). In its *ISP-Bound Intercarrier Compensation Order*, the Commission reinterpreted Section 251(b)(5) to apply to all traffic, whether local or long distance, to which Section 251(g) does not apply.[12] Accordingly, its rules implementing Section 251(b)(5) are no longer confined to "local" traffic. *Section* 251(g), however, by its plain language does not establish a permanent "carve-out" for exchange access traffic, but only one that exists "until such restrictions and obligations are explicitly superseded by regulations prescribed by the Commission after such date of enactment." 47 U.S.C. 251(g).[13] The Commission could, therefore, regulate intrastate access traffic pricing policies in the same manner as other traffic subject to Section 251(b)(5) by superceding Section 251(g)'s implied "carve-out" for intrastate exchange access.

Even if the Commission did not wish to exert direct regulatory jurisdiction, however, it also has the authority, under Section 254, to ensure that states undertake the regulatory changes necessary to ensure that support for universal service will be "specific, predictable and sufficient."[14] As instructed by the United States Court of Appeals for the Tenth Circuit in the *Qwest Remand*, the Commission is obligated to work in cooperation with the states to create some inducement for the states to assist in implementing the goals of universal service.[15] Consistent with Section 254's directives,

---

12 *ISP-Bound Intercarrier Compensation Order*, 16 FCC Rcd, at para. 34.

13 *See id*. at para. 39 ("Accordingly, unless and until the Commission by regulation should determine otherwise, Congress preserved the pre-Act regulatory treatment of all the access services enumerated under section 251(g).")

14 *Qwest Corp. v. FCC*, Nos. 99-9546, 99-9547,00-9505, 2001 WL 864222 (10th Cir. July 31, 2001). (*Qwest Remand*).

15 *Id*.

such a mechanism could help to reduce substantially the implicit universal service support currently being borne by carrier-paid intrastate access charges.

One example of a mechanism that the Commission should examine further to reduce intrastate access charges would be to shift all revenue requirements collected through carrier-paid intrastate access charges to the interstate jurisdiction for recovery through a supplemental subscriber line charge (SLC). If this were to occur, this additional revenue requirement could not limit the combined SLC and supplemental SLC to the current SLC caps, and it would be illogical to do so. To the extent the Commission believed it necessary to cap the supplemental SLCs, it would need to establish a new set of caps for the supplemental SLC based on the Commission's assessment of what combined interstate and intrastate monthly subscription fee (including local service rates and both SLCs) would be "reasonably comparable" and "affordable."[16] To the extent the revenue requirement could not be fully recovered through a "reasonably comparable" and "affordable" supplemental SLC, some additional, "sufficient" universal service support may be necessary.[17] It is important, however, that if the Commission undertakes such a mechanism, that it not simply burden federal universal service mechanisms without attempting to ensure that states shoulder their share of the universal service obligation.[18]

If the Commission were to undertake such a transition mechanism promptly, it could put itself and state commissions in a position to move to a wholly unified

---

[16] As an alternative, the Commission could leave the supplemental SLC uncapped, and could address any non-"affordable" rates through universal service mechanisms.

[17] In response to the remand in *Qwest v. FCC*, the Commission is obligated to define "reasonably comparable" rates and "sufficient" universal service support. It is difficult to see how it can do so without also better defining what constitutes an "affordable" rate.

intercarrier compensation mechanism at the earliest possible date. Failure to begin to take such steps, as required by the *Qwest Remand,* will only serve to undermine, and potentially to delay, the much needed unified intercarrier compensation mechanism.[19]

Finally, although some commenters argue that the Commission should move forward and reform intercarrier compensation for local traffic while retaining the current access charge regime while the CALLS Order for price cap LECs is in place[20], Level 3 urges instead that the Commission reform all compensation schemes simultaneously. If the Commission were to adopt a comprehensive compensation scheme that coincides with the implementation periods in CALLS, the schedule for reductions in ISP-bound compensation rates, and competitive LEC access charge benchmark rates, the implementation dates would be staggered only slightly, and the Commission would have no need to delay the necessary reforms.[21]

C. The Intercarrier Compensation Scheme Should Be Market Driven and Based on Economic Efficiencies

Level 3 agrees with Qwest that the ultimate goal of the proceeding should be a regulatory environment in which carriers and end-users, rather than regulators make the

---

[18] A state universal service mechanism – and by logical corollary its absence of such a mechanism – may not "rely on or burden Federal universal service support mechanisms." 47 U.S.C. 254(f).

[19] See SBC Comments at 47.

[20] *In the Matter of Access Charge Reform,* CC Docket No. 96-262, Sixth Report and Order, 15 FCC Rcd 12962 (2000) (*CALLS Order*).

[21] *See* Cable and Wireless USA (C&W) Comments at 20. Under the CALLS Order for price cap LECs, SLCs caps reach their highest level on July 1, 2003. 47 C.F.R. § 69.152(d)(1). The reduction in rates for ISP-bound traffic run through 2004. *ISP-Bound Intercarrier Compensation*, 16 FCC Rcd, at para. 78. For CLEC access charges, the benchmark rates will not move to bill and keep before 2005. 47 C.F.R. § 61.26(c).

determinations regarding the scope and quality of service and the appropriate price for such service.[22]

To achieve this goal, the Commission should adopt an intercarrier compensation regime that is technologically and competitively neutral, encourages the deployment of the most efficient technologies, encourages rational consumer decisions, minimizes the need for regulatory intervention, and reduces transaction costs. As stated in its comments, if there will be a positive intercarrier compensation rate, Level 3 advocates moving the intercarrier compensation regime for all types of traffic to a forward-looking, economic cost-based model to ensure that carriers are compensated from other carriers only for the incremental costs that would be incurred by the most efficient technology for termination and transport, plus a reasonable cost of capital (return on investment). Costs above forward-looking, economic, incremental cost should be recovered, if at all, from end-users and, if necessary, subsidized through the universal service fund (USF), not recovered from other carriers. This puts the costs of selecting a high cost provider on the end-user selecting that carrier.

Level 3 believes, however, that absent a truly competitive market where carriers can negotiate compensation levels freely without one party being able to "tip" the market through anticompetitive interconnection practices, regulators will have to determine the appropriate cost-based rates. Such a determination would require considerable resources from carriers and regulators, would lead to litigation, and would result in considerable uncertainty.[23] As argued by Qwest in its comments, competition, combined with various carriers deploying a multiplicity of network

---

[22] Qwest Comments at 3.

technologies and services, makes it extremely difficult for regulators to establish a single regulatory plan for intercarrier cost recovery. This is true because a carrier incurs the costs associated with transport and termination when it purchases the switching capacity necessary to ensure that it can terminate the call during the peak load portion of the day.[24] As argued by Qwest, regulators, therefore, would be required to determine an appropriate peak-load pricing scheme.

Moreover, because of the differing efficiencies associated with differing network architectures, each carrier incurs different costs of termination.[25] In order to accurately account for the various incremental costs associated with different services, different features (e.g. mobility, service quality) and technology, regulators would have to develop multiple rates so that the rate structure mirrors how costs are incurred. Regulators also would be required to determine whether rate differences are cost-based or merely reflect market-power. While such ratemaking is not impossible, unless regulators are able to "get the rate right," a cost-based interconnection pricing scheme would not eliminate the inefficient, market distorting behavior inherent in today's compensation system.

D. Bill and Keep Appears To Be The Regulatory Solution That Best Meets The Goals That The Commission Should Seek To Achieve.

To eliminate the artificial inefficiencies that the current regulatory model imposes on the delivery of services, Level 3 recommends that the Commission explore the elimination of payments between carriers for the costs of local access facilities, and

---

23 *See* Cellular Telecommunications & Internet Association (CTIA) Comments at 22.

24 Qwest Comments at 13.

25 *Id*. at 14.

adopt an interconnection pricing regime for all traffic based on bill and keep for origination and termination of all traffic that transverses the PSTN.[26] Under bill and keep, end-users would pay for the benefit of making and receiving calls. Although it may not always be true that both the calling and the called party benefit from the call, bill and keep for origination and termination is more consistent with the way customers use the communications networks of today. No matter whether it is local, long distance, or some other kind of call, it is no longer accurate to assume that the calling party is generally the primary beneficiary of a call. Consumers are increasingly connected through a variety of communication devices that reflect both the desire to "connect" and "be connected" with the rest of the world. In most instances, both the originating and terminating end-user derive some benefit from the call.

1. Bill and Keep Is Technologically And Competitively Neutral.

Level 3 argued in its comments that, properly implemented, bill and keep in lieu of payments between carriers for the cost of local access facilities could solve many of the problems of the current interconnection pricing regimes.[27] Bill and keep can help eliminate opportunities for inefficient behavior based on regulatory distinctions, including those opportunities arising from the preferential treatment of information services, to the extent that it moves the entire compensation system away from outdated jurisdictional classifications. The current patchwork of intercarrier compensation regimes, where local voice traffic is governed by a CPNP scheme, ISP-bound traffic is governed by another scheme, and interexchange telecommunications traffic is governed

---

26 *See generally* Bell South Comments at 2-4; C&W Comments at 9-10; IUB Comments at 1-2.

27 Level 3 Comments at 21-26.

by the intrastate or interstate access charge regime where the caller's interexchange carrier pays both the calling party's local exchange carrier (LEC) and the called party's LEC for all costs of originating and terminating the call, fails to take into account the true economics of interconnection. The current pricing regimes are not technologically neutral.

In its comments, Qwest provides a compelling discussion of the inefficient economic behavior encouraged by a compensation regime that requires carriers and regulators to determine whether traffic fits into a specific regulatory designation.[28] As discussed by Qwest, the current access charge regime and the lack of clarity regarding what traffic qualifies for the "ESP exemption" encourages carriers to deploy their networks in such as way so as to take advantage of this exemption. Each new technology driven classification of traffic and the resulting economic model encourages market entrants to leverage the economic benefits of a particular classification. Moreover, the complicated structure of the compensation scheme engages the FCC, state commissions, and service providers in endless disputes over regulatory definition-parsing and line-drawing, with different lines dramatically altering business plans. To ensure technological neutrality, the Commission could reverse a long history of decisions and eliminate the incentive that carriers have to classify traffic as an information service by repealing the ESP exemption.[29] However, Level 3 supports Qwest's view that given the problems inherent in the current compensation schemes,

---

[28] Qwest Comments at 18.

[29] In the *ISP-Bound Intercarrier Compensation Order*, the Commission reaffirmed its belief that retaining the exemption is important to facilitating the growth of Internet services. 16 FCC Rcd, at para. 29.

carriers, consumers, and regulators would be better served by the elimination of the access charge regime itself.[30]

2. Bill and Keep Encourages Carriers To Deploy The Most Efficient Technologies.

As explained in Level 3's comments, replacing all forms of intercarrier compensation with a bill and keep regime will ensure that carriers deploying advanced technologies reap the benefits of the cost savings inherent in these technologies. In a bill and keep regime, where providers recover the costs of the network directly from their end-users, VoIP and other advanced technology providers can offer packages of services to customers that vary according to bandwidth and quality of service, priced according to the unique nature of the service being offered rather than on a per minute basis. For instance, as discussed in Level 3's comments, an end-user such as a mail order company may determine that it wants one level of quality for customer calls, and a less expensive quality for internal corporate calls.[31] In short, bill and keep enables providers to compete on the basis of the technology and services offered to consumers. Where consumers are able to make their purchasing decisions based on the efficiencies a particular carrier is capable of providing, carriers will have the incentive to upgrade their networks to provide services at the most efficient prices.

Moreover, as discussed in section III.A *infra*, regarding the allocation of transport costs, Level 3 advocates a single point of interconnection per local access and transport area (LATA). Requiring carriers to bring all traffic, including both local and

---

30 Qwest Comments at 18.

31 Level 3 Comments at 15, citing *Voice over IP (VoIP)*, The Technology Guide Series at 5 (1999).

interexchange to a single point of interconnection maximizes the ability of providers to use efficient two-way trunks.[32]

3. Bill and Keep Encourages Efficient Consumer Decisions.

Recovery of origination and termination costs from end-user customers on a bill and keep basis enables efficient consumer decisions, or in the words of the Commission, should end or reduce the terminating access monopoly problem.[33] As the Commission described in the *Notice*, and has been widely discussed in the economics literature,[34] under a CPNP regime, the end-user's selection of its "last mile" carrier creates a *de facto* termination bottleneck. The bottleneck arises from the fact that the calling party's carrier must pay the terminating carrier whatever price it demands because the terminating carrier is usually the only way to deliver traffic to that particular end-user customer.[35]

By requiring the terminating carrier to recover its costs from its own end-user customers, the end-user can compare retail prices charged and services offered by the "last mile" carriers and choose the most efficient way to reach her, given her specific needs. For example, a customer that spends little time at home and is highly mobile may wish to "cut the cord," receive all calls through a wireless connection, and pay the costs of the mobile functionality. The customer may prefer to sign up for service with a provider that uses highly efficient, low cost technologies such as VoIP. Or the customer

---

32 *See generally* AT&T Wireless Comments at 42.

33 *Notice*, 16 FCC Rcd at paras. 40 & 53.

34 *See id.,* 16 FCC Rcd, at para. 38. *See generally*, ROBERT W. CRANDALL & LEONARD WAVERMAN, TALK IS CHEAP: THE PROMISES OF REGULATORY REFORM IN NORTH AMERICAN TELECOMMUNICATIONS (Brookings, 1996).

may wish to stay with the older, embedded-cost incumbent LEC circuit switched service, and pay the full costs of being a subscriber on that network. The subscribing end-user controls the decision of whether to purchase services from the lowest cost provider and can select providers weighing both cost and functionality, without imposing the costs of that choice on other network users. She may also reject a provider that charges above cost rates. The subscribing end-user, therefore, is the "cost minimizer."

Having the end-user bear the cost is justified by the principle of cost minimization. In contrast, a CPNP system, even one with a uniform "minute-is-a-minute" interconnection rate that is the same for access traffic and for local traffic, does not necessarily have the same advantage of internalizing all consequences of the subscribing end-user's choice of carrier to that subscriber. The theory of a CPNP system is that the incremental costs of termination are charged to the caller. However, different networks will have different incremental costs. A CPNP system could be constructed that would charge the most efficient termination rate to the calling party, with all other costs borne by the called party, but in practice this would be a difficult system to administer, with constant litigation over the appropriate level of the most efficient termination rate.

Because bill and keep requires carriers to internalize the costs of their network and permits recovery of those costs only from their own end-user customers, this regime helps to eliminate terminating access monopolies, treats all minutes equally, and places the costs on the end-user for selecting a higher cost termination service or provider.

---

[35] *See COBAK Proposal* at para. 89.

Level 3 recognizes, however that bill and keep may encourage "overuse" and "free-riding" (e.g. dumping traffic to other carriers early or interconnecting a small network with a very big one and getting free transport). As discussed in section III below, it is imperative that the Commission adopt a pro-competitive, nondiscriminatory economically sound solution for allocating transport costs to the point of interconnection. This solution will mitigate the possibility of overuse of the other carrier's network and will ensure that carrier build out their networks in the most efficient manner.

4. Bill and Keep Requires Less Regulatory Intervention Than The Current Compensation Schemes.

One goal the Commission should seek to achieve in adopting a unified intercarrier compensation regime is to reduce the need for regulatory intervention and lower or eliminate unnecessary transaction costs to the greatest extent practicable. Bill and keep minimizes the need for regulatory intervention to set or adjudicate interconnection prices. The need for regulators to determine rates for termination or resolve pricing disputes for termination of local voice, ISP-bound, or interexchange telecommunications traffic will be eliminated. While economic theory would indicate that regulatory arbitrage could be avoided simply by "getting the price right" (assuming that the regulator did not then also impose additional limitations on retail pricing), as discussed earlier in these Reply Comments, in practice "getting the price right" is a difficult regulatory exercise that injects substantial uncertainty into business planning. As described by DeGraba, incumbent LECs (and other LECs when they have bottleneck

market power) often have an incentive to push access rates as high as possible.[36] Interconnecting networks that predominantly deliver traffic or that must pay for origination often push regulators for low interconnection prices because interconnection is a cost otherwise outside their control. By eliminating the transfer of payments between carriers for interconnection, bill and keep both reduces this constant regulatory battle, and ensures that interconnecting carriers can better provide their services according to their own costs, without being tied to the cost structures of other networks.

5. Bill and Keep Lowers Transaction Costs

An intercarrier compensation regime based on principles of bill and keep would eliminate the costs associated with monitoring, measuring, and billing originating carriers for traffic exchanged.[37] Because each terminating carrier already has systems in place to bill its own end-user customers the burden of recovering the costs of the local access facilities from these same customers would impose minimal additional costs. Moreover, each terminating carrier could bill its end-user customers in a manner that best reflects the technologies that carrier has deployed in its network and the services the customer chooses to purchase.

E. Other Issues Associated with the Adoption of Bill and Keep for All Traffic

1. Unbalanced Traffic

Level 3 agrees with AT&T Wireless that the Commission must look to the beneficiaries of a call and cost causation to determine whether bill and keep is

---

[36] *COBAK Proposal* at para. 91.

appropriate even where traffic between interconnecting carriers is not in balance.[38] In those circumstances where the called party accepts the call and continues the call for at least a brief period of time, it can be assumed rationally that both parties benefit from the call and also cause its costs. Under bill and keep, because each carrier recovers the costs of originating and terminating the traffic of its own customers, and because the costs of originating a call should be approximately the same as terminating a call, carriers should be indifferent to whether they originate or terminate more traffic.[39] Where the Commission is concerned, however, that the traffic balance is an issue, it should examine further the proposal put forward by the Iowa Utilities Board (IUB). According to its comments, the IUB has rules in place to accommodate carriers who can show that the flow of traffic is significantly out of balance. In such circumstances, the IUB allows some type of cost-based reciprocal compensation to be charged for the exchange of local traffic.[40] While the IUB rule appears to be appropriate for the termination of local traffic, the Commission should explore whether it is feasible to establish a similar alternate rule for the termination of traffic traditionally subject to interstate access charges.

2. Universal Service Implications

As stated previously, Level 3 recognizes that the elimination of access charges would require end-users in high costs areas to bear a greater portion of costs carriers incur serving these end-users. The Commission must, therefore, implement universal service reforms to defray some of the costs of serving high cost end-users. As part of

---

37 *See* Notice, 16 FCC Rcd, at para. 51; Sprint Corporation (Sprint) Comments at 6.

38 AT&T Wireless Comments at 32.

39 *Id*.

these reforms, and pursuant to the *Qwest Remand*[41], the Commission has the obligation to consider how it will maintain affordable rates. The Commission should not hesitate to adopt a bill and keep interconnection pricing regime for fear of the effects it would have on universal service. Instead, as was first envisioned in 1996, the Commission should address necessary universal service reforms in coordination with intercarrier compensation reform.

It is critical for any new intercarrier compensation mechanism to maintain affordable universal service. Because the current intercarrier compensation systems (most notably interstate and intrastate access charges) have been vehicles for generating implicit universal service support and achieving other social policy goals, it is important that the Commission take further steps to make explicit universal service support and to target that support to those areas where necessary to maintain affordable rates. Specifically, as discussed in section II B *supra*, Level 3 agrees with Qwest that the Commission may need to consider increasing universal service funding to support those end-users whose total rates, including local plus interexchange rates, have increased dramatically as a result of the increase in end-user charges that might be necessary to ensure adequate cost recovery.[42]

III. ALLOCATION OF TRANSPORT COSTS

Whether the Commission adopts an interconnection pricing regime based on bill and keep or maintains the current access charge and reciprocal compensation regimes, it

---

40 IUB Comments at 2-3.

41 *Qwest Remand*.

42 *See* Qwest Comments at 35-36.

must not lose sight of the rules that will govern the interconnection of networks.[43] Unless the interconnection rules are properly crafted, the benefits of a unified intercarrier compensation regime could be lost through increased facilities charges. This is especially true if the Commission adopts a regime that will require any carrier to extend the reach of its network where it is not economically efficient to do so.

A. The Commission Must Clarify that a Single Point of Interconnection Per Appropriate Geographic Region Refers to the Financial as Well as the Physical Point of Interconnection

Level 3 agrees with AT&T Wireless that the Commission's primary goals in allocating transport costs should be to ensure that the requirements prevent incumbent LECs from abusing their market power by charging above cost rates for transport, eliminate or reduce market distortions, and reduce the transaction costs and the need for regulatory intervention.[44] To avoid introducing inefficiencies into the deployment of competitive networks, the Commission must clarify that the "rules of the road" it has established with regard to the number and location of points of interconnection (POI) between interconnecting carriers refers to the financial POI. In other words, the rules must dictate how transport costs are allocated. In its Order granting Verizon's section 271 application in Pennsylvania, the Commission called into question whether its "one POI per LATA rule" referred to the allocation of financial responsibility for interconnection facilities.[45] Clearly, the Commission's rules of the road would have no

---

[43] Level 3 Comments at 26. *See* Sprint Comments at 29.

[44] AT&T Wireless Comments at 40.

[45] *In the Matter of Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, CC Docket No. 01-138, Memorandum Opinion and Order, FCC 01-269, at para. 110 (rel. Sept. 19, 2001).

meaning if they did not determine who bears the financial responsibility for bringing traffic to the POI.

First, as argued by many commenters, the Commission should reaffirm that incumbent LECs must permit a single POI of the competitive carrier's choosing within a defined geographic region, such as the Commission requires in each LATA[46] In addition, as described below, to fairly assess transport costs so that the incumbent LEC does not bear the burden of carrying all traffic to a single interconnection point, the Commission should establish thresholds where significant traffic volumes justify establishing additional POIs. Requiring multiple POIs upon market entry without any reference to traffic presents a barrier to entry by compelling competitive carriers to build or buy facilities in markets where they have yet to win or serve even a single customer. The additional advantage of a single POI per LATA is that it limits opportunities for "free-riding" by small regional networks on larger ones.

The second rule, confirmed in the *TSR Wireless Order,* is that each carrier is responsible for delivering its originating traffic to the POI and recovering such costs in the rates it charges to its end-users.[47] The Commission should reconfirm this rule and clarify that carriers must bear the cost of building facilities to the POI, and may not charge the interconnecting carrier for the transport facilities on their own side of the POI used to originate any traffic generated by that carrier's customer.[48] Level 3 believes that allocation of transport costs in this manner is consistent with the proposal

---

[46] *See* Allegiance Comments at 32-33; AOL Comments at 3-6; CBeyond Comments at 8-9; TWTC Comments at 15.

[47] *TSR Wireless, LLC et al. V. US West Communications, Inc., et al.,* File Nos. E-98-13, E-98-15, E-98-16, E-98-17, E-98-18, Memorandum Opinion and Order, FCC 00-194, para. 34 (rel. June 21, 2000) (*TRS Wireless Order*).

that Qwest deems "POIBAK."[49] Level 3 agrees with Qwest that the Commission must examine further whether deeming the existing physical POIs as the default financial POIs produces efficient results.[50] The Commission's rules regarding the physical location of the POI and the allocation of financial responsibility should ensure that competitive carriers are able to build-out their networks in the most efficient manner and are not burdened with transport rates that fail to reflect accurately how the facilities are used.

B. Default Threshold for Additional Points of Interconnection Could Be Reasonable

In addition to permitting competitive carriers to establish a single POI per LATA, the Commission should establish a default threshold based upon traffic volumes for additional points of interconnection. State commissions have looked favorably upon this proposal in recent arbitrations and have established varying thresholds.[51] Moreover, several commenters support additional build outs where traffic reaches

---

48 *See* Qwest Comments at 26 (faulting COBAK as inefficient because "the financial POI . . . would almost never coincide with any sensible physical POI.")

49 *Id.* at 27.

50 *Id*. at 28.

51 This approach has been adopted by several state commissions in trying to balance transport obligations and obstacles to competitive entry. *See, e.g., In the Matter of The Petition of Level 3 Communications, LLC for Arbitration with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996*, Case No. 2000-404, Order (Ky. P.S.C. Mar. 14, 2001), at 3 (finding that an additional POI once the traffic at a BellSouth access tandem reaches an OC-3 level of capacity "weighs the balance between [1] the efficiencies to be gained by not requiring new entrants to deploy a POI in every local calling area and [2] the incumbent's interests in paying minimal originating traffic costs"); *Level 3 Communications, Inc. Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Illinois Bell Telephone Company d/b/a Ameritech Illinois*, Docket No. 00-0332, Arbitration Decision (Ill.C.C. Aug. 30, 2000), at 31 (holding that additional POIs should be established at Ameritech access tandems once traffic at those locations reaches an OC-12 level of traffic, in order to allow the competitive LEC "every opportunity to establish itself in the Chicago LATA and to progress at a speed that is commensurate with sound economic growth").

various capacity levels.[52] The various proposals make clear that the Commission must develop the record further to determine the economics and engineering principles that would best support additional points of interconnection.[53] Such an alternate proposal would give certainty to carriers in terms of knowing when additional POIs would be required and would avoid placing a burden on competitive carriers until such time as traffic volumes dictate additional transport expenditures. In other words, a competitive carrier would not be required to "flash cut" to a ubiquitous interconnection architecture upon market entry, but could instead be required build out its interconnection network as traffic volumes dictate.

IV. THE COMMISSION MUST REJECT BOC ATTEMPTS TO IMPOSE RESTRICTIONS ON THE USE OF VIRTUAL NXX CODES BY CLASSIFYING SUCH TRAFFIC AS LONG DISTANCE.

The Commission should disregard Verizon's obfuscation of the issues relating to the use of so-called "Virtual NXX" or "FX-type" services by competitive LECs.[54] Level 3 recognizes that Verizon's arguments regarding the use of these services by competitive LECs would no longer be relevant if the Commission and states adopt bill and keep for all traffic and make corresponding adjustments to retail rates so that each call is "sent paid" only to the POI. Nevertheless, since the Commission has not yet determined whether it will adopt bill and keep for all traffic, and if it does, the transition

---

[52] *See* AT&T Wireless Comments at 41. (citing standard interconnection contract provisions requiring direct trunking between a competitor's switch and an incumbent LEC's end office when traffic reaching the DS-1 level is exchanged at the peak busy hour. TWTC has agreements in place pursuant to which it assumes the obligation to carry traffic all the way to the ILEC end office after traffic levels exceed the equivalent of three DS1s. TWTC Comments at 14.

[53] *See* Allegiance Comments at 28.

[54] AT&T Comments at 61; AT&T Wireless Comments at 57; Allegiance Comments at 53; AOL Comments at 7; CBeyond Comments at 12; KMC Telecom Inc. Comments at 6-8.

may not be immediate, in order to resolve this issue prior to reforming the intercarrier compensation system, Level 3 requests that the Commission reject once and for all Verizon's and the other BOCs' attempts to impose restrictions on the use of virtual NXX codes.

While Verizon points to the decision of a single state commission to support its position,[55] it ignores the many decisions by state commissions finding that such services are lawful and an appropriate competitive response to incumbent foreign exchange services.[56] Verizon's extreme position – and the flawed reasoning that flows from it – should be rejected by the Commission as contrary to the consensus among the industry and the prevailing treatment of such services today. Deeming these services "unlawful"[57] as Verizon requests would only inhibit competitive responses to incumbent service offerings and deny consumers services that they demand and use today.

Beyond the illogical and unsupported position that the competitive LEC offering of Virtual NXX or FX-type services is inconsistent with law, Verizon incorrectly argues

---

[55] Verizon Comments at 5.

[56] *See, e.g.*, In re Complaint of Glenda Bierman against CenturyTel of Michigan, Inc. d/b/a CenturyTel, Opinion and Order, Case No. U-11821 (Mich. PSC Apr. 12, 1999); In the matter of the application of Ameritech Michigan to revise its reciprocal compensation rates and rate structure and to exempt foreign exchange service from payment of reciprocal compensation, Case No. U-12696 (Mich. PSC Jan. 23, 2001); Petition of MCImetro Access Transmission Services, LLC for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996, Recommended Arbitration Order, Docket No. P-474, Sub 10 (NCUC April 3, 2001) at 74, upheld and affirmed, Order Ruling on Objections and Requiring the Filing of the Composite Agreement (NCUC, Aug. 2, 2001), at 28; Order Instituting Rulemaking on the Commission's Own Motion Into Competition for Local Exchange Service, Rulemaking 95-04-043, Investigation 95-04-044 (Cal P.U.C. September 3, 1999); Level 3 Communications, LLC Petition for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, for Rates, Terms, and Conditions with Pacific Bell Telephone Company, D. 00-10-032, Application 00-04-037 (Ca. PUC Oct. 5, 2000); In re Petition of Level 3 Communications, LLC for Arbitration with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996, Order, Case No. 2000-404 (Ky. P.S.C. Mar. 14, 2001).

that the competitive LEC offering of such services somehow causes Verizon and other incumbent LECs to incur greater transport costs. Specifically, Verizon contends that these competitive LEC services transfer the costs of transporting FX-type calls from the competitive LEC serving the "distant" customer to the incumbent LEC serving the calling party customer.[58] This assertion is untrue, and it represents a misunderstanding of the call flows involved and the nature of the costs incurred between interconnecting carriers. The fact is that an incumbent LEC bears no more transport responsibility on its network in originating these Virtual NXX or FX-type calls than it does in originating a call to a competitive LEC customer physically located in the same local exchange area as the calling party. Thus, the representation that an incumbent LEC somehow must transport the call over long distances to a competitive LEC customer in the FX-type scenario is mistaken. In fact, the incumbent LEC only takes the call to the point of interconnection with the terminating competitive LEC closest to where the call originates – and that responsibility to originate the call to the POI does not change based upon where the competitive LEC customer is located. If anything, it is the competitive LEC who bears more transport costs in serving a Virtual NXX or FX-type customer, in that the competitive LEC must take the call beyond its switch to the so-called "distant" customer. Verizon fails to explain any of this in its limited discussion of this issue, and it is noteworthy that Verizon fails to provide any discussion of the central role of the POI in its brief "analysis."

The POI is in fact critical to understanding the relative costs borne by each party. First, consider the case of an incumbent LEC customer calling a competitive

---

[57] Verizon Comments at 4.

LEC customer who is *not* served through a Virtual NXX or FX-type arrangement. The incumbent LEC's responsibility is to take the call over the local loop, through its customer's serving end office, and onto the POI required under its interconnection agreement with the competitive LEC. Now consider the case in which the same incumbent LEC customer places a call to a competitive LEC customer purchasing a Virtual NXX or FX-type service. In this second example, the incumbent LEC's responsibility is no different than in the first. The incumbent LEC need only take the call to the fixed and established POI, and delivery to the called party customer's physical location becomes the responsibility of the terminating competitive LEC serving that customer. What Verizon ignores is that transport responsibility for the originating carrier is not defined by where the terminating carrier's customer resides – instead, the incumbent LEC's transport responsibility is defined *solely* by where the POI is located. Because the POI does not change based upon the location of the terminating carrier's customer, the incumbent LEC bears no additional transport responsibility depending upon whether a Virtual NXX service is involved or not.

Verizon therefore misses the mark badly in its statement that "it incurs costs to transport the call to the terminating carrier."[59] The fact is that, in a competitive environment where two different LECs serve the calling and called parties, Verizon – and any originating incumbent LEC or competitive LEC for that matter – will always incur costs in transporting a call to the terminating carrier. Indeed, without the originating LEC bearing the responsibility for getting a call to the POI with the terminating LEC, how else could a call ever get to that terminating carrier? The

---

[58] *Id*. at n.15.

relevant question that Verizon fails to pose or consider is whether the use of a Virtual NXX service or FX-type service generates any transport costs on the originating carrier that are *different* than those involved in originating any other locally-dialed call. The answer is that they do not, and thus Verizon's arguments about the burden of originating such calls are inapposite.

Verizon also contends that the provision of Virtual NXX and FX-type services causes the originating LEC to lose either the toll or access revenues it would normally collect on such calls.[60] This argument fails for several reasons. First, the same could be said of incumbent LEC foreign exchange services. If a competitive LEC customer originates a call to an FX customer served by the incumbent LEC, the call will be routed to the local POI for hand-off between the carriers. The competitive LEC, seeing that its customer has dialed a local call, will handle that call under the customer's local calling plan, and will not know to charge its customer toll based upon the incumbent LEC customer's "distant" location. Moreover, under existing interconnection compensation arrangements, the originating competitive LEC will not be permitted to charge the incumbent LEC originating access on that call; indeed, unless the competitive LEC has a real-time knowledge of every incumbent LEC FX customer, it won't even know that the incumbent LEC customer is in a "distant" location such that access might otherwise have been due. Thus, even under existing FX services offered by the incumbent LECs, the competitive LEC could be said to be "losing" toll charges it might otherwise collect from its customer and "forfeiting" originating access charges it might otherwise be allowed to impose upon Verizon. If Verizon intends this as a

---

[59] Verizon Comments at 6.

condemnation of Virtual NXX and FX-type services, it is a condemnation of its own FX services as well. However, given the obvious public interest and benefits in offering consumers all such service options, Verizon's argument about the loss of toll and access revenue cannot be taken as a serious rationale for prohibiting carriers from offering such services.

A second flaw in Verizon's argument about the purported loss of toll and access revenue is that this argument is steeped in a monopoly mindset. Verizon thinks it is entitled to an established level of revenue, regardless of how other providers in the environment compete and regardless of the actual functions it provides to its customers. In a multiple provider environment, as discussed above, Verizon and any other originating LEC would not be responsible for the transport to the "distant" customer location; rather, in terms of origination, they are responsible only to transport the call to the POI. Thus, they are not providing any special function that entitles them to toll or access revenue. Instead, they are performing only those functions associated with originating a local call, and in a competitive, cost-based marketplace, they should receive only the compensation associated with providing those local service functions.[61]

---

[60] *Id*.

[61] Indeed, one might question whether the calling party would even place a call at all – and generate the toll and access revenues about which Verizon is so worried – if that customer faced the prospect of incurring toll charges to place the call in the first instance. The competitive offering of these services makes the customer's decision to place the call much easier. Moreover, Verizon's insistence on focusing on the physical location of the customers is all the more curious when one considers optional EAS products offered by ILECs. If one were to adopt Verizon's reasoning, an ILEC offering an optional EAS product denies competitive carriers terminating toll access revenue (and the ILEC collects and keeps the additional revenue from its customers) by allowing its customers to place local calls even though, based solely upon physical location, the call would otherwise be intraLATA toll and subject to terminating access.

Finally, Verizon argues that the originating LEC should not be required to compensate the terminating LEC in the exchange of Virtual NXX or FX-type calls.[62] This position is contrary to the historical industry practice of how calls are rated, the actual routing of such calls, and even *Verizon's own admitted practices in terms of billing and collecting reciprocal compensation, at least in Florida.* With respect to call rating, existing billing systems rate calls by comparison of the calling and called party NXX codes, as those codes are associated with specific rate centers. By classifying a call as local or "special" toll for intercarrier compensation based on the physical locations of the calling and called parties underlying the NXX of each customer, Verizon's proposal would create an unjustified exception to the industry's long-standing call-rating practice. It would call for some form of information sharing among carriers that has yet to be developed, and demand untold changes to billing systems, at a cost that no one has estimated.

The routing of these calls likewise undermines Verizon's reasoning that these calls should be treated differently for compensation purposes. As noted earlier in these Reply Comments, calls to Virtual NXX or FX-type customers are routed just like any other local call for interconnection purposes. If a call is dialed to the local telephone number of a customer served by another carrier, that call will be routed over local interconnection trunks to the POI between the parties; to Level 3's knowledge, carriers do not today differentiate and segregate for routing purposes between local numbers that happen to belong customers who are physically located in the calling area versus local numbers that don't belong to customers physically located in the calling area. If

[62] Verizon Comments at 6.

the "correct treatment" for compensation purposes means that calls routed in a like manner should be compensated in a like manner, then calls should be compensated based upon a comparison of NXX codes, because that is how they are routed.

V. Finally, Verizon's position on reciprocal compensation for Virtual NXX and FX-type calls is noteworthy because of how Verizon itself treats calls to its "distant" customers. Only a few months ago, in a proceeding in Florida, Verizon admitted that it *still* bills competitive LECs reciprocal compensation for calls to its FX numbers and that it proposes to *continue* doing so even as it argues competitive LECs may not.[63] While Verizon may want to distinguish its own FX services from the comparable services offered by competitors, the fact is that even Verizon cannot pretend as if its FX customers are physically located in the foreign exchange. Verizon's hypocrisy in continuing to bill reciprocal compensation even when its customers are not physically located in the local calling area associated with the terminating NXX code shows the results-oriented nature of Verizon's analysis. Calls to customers purchasing Virtual NXX services, FX-type services, and FX services are rated as local at retail and routed as local for interconnection purposes. They should be treated as local for intercarrier compensation purposes as well.CONCLUSION

For the reasons discussed above, Level 3 urges the Commission to adopt a comprehensive intercarrier compensation regime for all traffic that traverses the public switched network. As the record reflects, the importance of adopting a comprehensive regime, as opposed to reforming one type of intercarrier compensation at a time, i.e., reforming compensation for local and ISP-bound traffic first and later implementing reforms for traffic traditionally subject to access charges, cannot be understated. The primary benefit of intercarrier compensation reform – to eliminate inefficient, market distorting behavior – will be lost if the Commission does not adopt a comprehensive compensation scheme. Level 3 believes the record supports further examination of

---

[63] See Attachment A, at Interrogatory 7, Verizon Florida Inc.'s Responses to Staff's First Set of Interrogatories (Nos. 1-9), *In re: Investigation into appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996, Docket No.000075-TP (Phase II).*

whether a bill and keep is the most efficient means of achieving the goals of a competitively and technologically neutral compensation scheme.

Moreover, the record supports the need for the Commission to clarify and revise to the extent necessary the allocation of financial responsibility for inter-network transport. Level 3 urges the Commission to address these issues whether it adopts a bill and keep regime for all traffic or retains the current patchwork of compensation regimes. The Commission must adopt a default financial POI rule that is economically efficient, non-discriminatory and competitively neutral.

Finally, whether or not the Commission reforms intercarrier compensation, it must reject immediately the arguments made by Verizon that the use of Virtual NXX office codes is fraudulent, unlawful, or an abuse of the numbering resources scheme. Moreover, the Commission must reject the unsupported assertion that the competitive LEC offering of such services somehow causes Verizon and other incumbent LECs to incur greater transport costs. An incumbent LEC bears no more transport responsibility on its network in originating these Virtual NXX or FX-type calls than it does in originating a call to a competitive LEC customer physically located in the same local exchange area as the calling party.

Respectfully submitted,

Staci L. Pies
William P. Hunt, III
8270 Greensboro Drive
Suite 900
McLean, VA 22102
(703) 762-0143

Dated: November 5, 2001